

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MATTHEW ISHAM, individually) Civil No. CV04-00559 ACK BMK
and as Guardian Ad Litem for) (In Admiralty)
HAYDEN ISHAM, a minor,)
ROXANNE BEST ISHAM,) DEPOSITION OF
Plaintiffs,) MATTHEW ISHAM
May 3, 2005
9:00 a.m.

vs.

BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING, LTD.,)
CAPTAIN ANDY'S SAILING, INC.,)
Defendants.)

DENNIS CLAYPOOL, SHERYL) Civil No. CV04-00570 ACK KSC
CLAYPOOL, individually and as)
Guardian Ad Litem for KRISTEN)
CLAYPOOL, a minor, SCOTT)
CLAYPOOL, and KRISTEN CLAYPOOL)

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING, INC.,)
BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING, LTD.,)
Defendants.)

CAPTAIN ANDY'S SAILING, INC.,)

Third-Party
Plaintiff,

vs.

MATTHEW ISHAM,

Third-Party
Defendant.

-continued-

EXHIBIT

8

-continued-

In the Matter of) Civil No. CV05-00017 HG LEK
The Complaint of CAPTAIN)
ANDY'S SAILING, INC., a Hawaii)
corporation, as pro hac vice)
owner, and EVANS PACIFIC, LTD,)
a Hawaii corporation, as owner)
of M/V SPIRIT OF KAUAI, O.N.)
995776, for exoneration from)
or limitation of liability.)

In the Matter of) Civil No. CV05-00037 HG/BMK
THE COMPLAINT OF BLUE DOLPHIN)
CHARTERS, LTD. AND TERRY)
DONNELLY AS OWNERS OF THE)
VESSEL M/V BLUE DOLPHIN, O/N)
1082213, for exoneration from)
and/or limitation of)
Liability.)

DEPOSITION OF MATTHEW ISHAM

Taken on behalf of Defendant Captain Andy's Sailing, Inc.
at Pacific Guardian Center, Conference Room B for use by
Pacific Reporting Services Unlimited, Suite 1470, Makai
Tower, 733 Bishop Street, Honolulu, Hawaii, commencing at
9:00 a.m. on May 3, 2005, pursuant to Notice.

Transcribed by: WILLIAM T. BARTON, RPR, CSR #391
Court Reporter, State of Hawaii

PACIFIC REPORTING SERVICES UNLIMITED
Suite 1470, Makai Tower
733 Bishop Street
Honolulu, Hawaii 96813
(808) 524-PRSU

1 MR. HUITT: I need to understand the question, as
2 well.

3 MR. FORMBY: You placed your objection and
4 instructed him not to answer.

5 MR. LESSER: I'm not going to join in that
6 instruction.

7 MR. FORMBY: Thank you.

8 BY MR. FORMBY:

9 Q. Mr. Isham, previously you testified as to --

10 MR. LESSER: But I'm going to object to the
11 question as vague and ambiguous.

12 MR. FORMBY: Fine. Thank you.

13 BY MR. FORMBY:

14 Q. Previously, you testified that you have a normal
15 dive you conduct at Mokol'e Reef, correct?

16 A. Yes.

17 Q. And you said it was approximately 130, 140 feet
18 from the mooring line, the mooring anchor?

19 A. The maximum distance, yes, sir.

20 Q. So previously, on those estimated ten occasions
21 when you had vessels pass overhead and you did testify that
22 you have, correct? Had vessels passed overhead of you?

23 A. Yes, sir.

24 Q. On those ten estimated occasions, has it been
25 within the 130 to 140 feet of the mooring anchor at Mokol'e

1 Reef?

2 A. Yes. Most of the times when I've had boats go
3 over my head, it's been around the moorings, boats were
4 searching for mooring balls. That is most of the times
5 I've had them come close to me, yes, sir.

6 Q. Did you have a dive computer with you on July 20,
7 2004?

8 A. No, sir.

9 Q. Did the PADI program have something referred to
10 as a "buddy system"?

11 A. Yes, sir.

12 Q. What is the buddy system?

13 A. If you're a certified diver, you should dive --
14 you need to dive with another certified diver.

15 Q. Does the buddy system apply to uncertified divers
16 in the Discover Scuba program?

17 A. Could you say the question again?

18 Q. To your knowledge, does the buddy system apply to
19 uncertified divers in the Discover Scuba diving program?

20 A. To my knowledge, I'm their buddy.

21 Q. So on July 20, 2004, you would have been Dennis
22 Claypool's buddy, correct?

23 A. Yes, sir.

24 Q. Is there a standard safe distance between
25 buddies under the PADI program, if you know?

CERTIFICATE

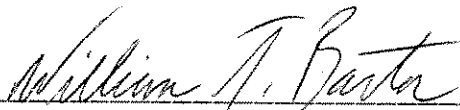
STATE OF HAWAII)
) SS.

COUNTY OF HONOLULU)

I, WILLIAM T. BARTON, RPR, Certified Shorthand Reporter, State of Hawaii, do hereby certify that on May 3, 2005 at 9:00 a.m. there appeared before me MATTHEW ISHAM, the witness whose deposition is contained herein; and that prior to being examined was duly sworn; that I am neither counsel for any of the parties herein, nor interested in any way in the outcome of this action;

That the deposition herein was by me taken down in machine shorthand and thereafter reduced to print via computer-aided transcription under my supervision; that the foregoing represents a complete and accurate transcript of the testimony of said witness to the best of my ability.

Dated this 12th day of May 2005 at Honolulu, Hawaii.



WILLIAM T. BARTON, CSR No. 391

Notary Public, State of Hawaii

My Commission expires August 7, 2005